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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

In re:	) CASE: 19-20284
	) CHAPTER: 7
Duane R Zanon)
Carol M Zanon,	) DC NO.: AMM-001 (Eastern)
)
Debtor(s).)
	) MOTION FOR RELIEF FROM
	) STAY
	) [Local Rule 4001-1 and Local Rule 9014-1(f)(1)]
)
	) DATE: March 21, 2019
	) TIME: 10:00 a.m.
	) PLACE: 501 I Street, 6th Floor,
	) <u>Courtroom 33</u>
	) Sacramento, CA

The Bank of New York Mellon as Indenture Trustee for Nationstar Home Equity Loan Trust 2009-A (“Movant”), hereby moves the Court for an Order Terminating the Automatic Stay for cause pursuant to *11 U.S.C. Section 362(d)(1)* and/or *(d)(2)* on the grounds hereafter set forth:

1. On January 17, 2019, **Duane R Zanon and Carol M Zanon** (“Debtor”) filed a Chapter 7 petition in the United States Bankruptcy Court for the Eastern District of California,

1 Sacramento Division, Case No. 19-20284. **Nikki B. Farris** is the duly appointed and acting
2 Chapter 7 Trustee.

3 2. The court has jurisdiction over this Motion for Relief from the Automatic Stay
4 under the provisions of 28 U.S.C. Sections 157 and 1334 and 11 U.S.C. Section 362. Venue in
5 this Court is proper under the provisions of 28 U.S.C. Section 1409.

6 3. The Debtor's estate includes real property commonly known as **28 Cherokee**
7 **Road, Oroville, CA 95965** ("Property").

8 4. Movant is the holder of a Promissory Note ("Note") in the original principal
9 amount of \$184,500.00 made, executed, and delivered by borrower Duane R. Zanon and Carol
10 M. Zanon on June 12, 2007, to NATIONSTAR MORTGAGE LLC as payee, ("Original
11 Lender"). The Note is secured by Deed of Trust ("Deed of Trust") encumbering real property
12 commonly known as **28 Cherokee Road, Oroville, CA 95965** ("Property") and is legally
13 described in the Deed of Trust.
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15 5. The total amount due under the Note and Movant's Deed of Trust as of January
16 22, 2019, exclusive of attorneys' fees and costs, was approximately **\$204,653.10**.
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18	Unpaid Principal Balance:	\$176,410.13
19	Interest:	\$18,918.50
20	Escrow Advance Balance:	\$1,658.75
21	Other fees and costs:	\$7,665.72
22	Total due:	\$204,653.10

23 6. As of January 22, 2019, the Debtors have defaulted in their loan obligation by
24 failing to make regular monthly mortgage installments for the months of January 01, 2018
25 through and including January 01, 2019 for total arrearage of **\$21,779.03**, exclusive of attorneys'
26 fees and costs. An additional payment of **\$1,675.31** has become due on **February 01, 2019**.
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1 7. The Debtors claim under penalty of perjury in Schedule A – Real Property and in
2 Schedule D – Creditors Holding Secured Claims, that the real property has a fair market value of
3 **\$150,000.00**. True and correct copies of said Schedule A and Schedule D are attached hereto as
4 **Exhibit 5** and is incorporated herein by reference. After deducting the estimated costs of sale
5 and the total encumbrances from the Debtors' value of the real property, there is no remaining
6 equity cushion to adequately protect Movant's interest in the real property.

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8 8. Furthermore, the real property has no substantial value for the Debtors' estate.
9 According to Schedule A, the fair market value of the real property is **\$150,000.00**. The real
10 property is encumbered by Movant's deed of trust securing a debt of **\$204,653.10**. Since the
11 total encumbrances against the property are estimated to be **\$204,653.10**, there is no equity in
12 this asset for the Chapter 7 Trustee to administer.

13 9. There is cause to terminate the automatic stay so that Movant can progress
14 enforcement of its contractual default remedies under the Note and Deed of Trust. Pursuant to
15 *11 U.S.C. § 362(d)(1)*, Movant's interest in the Property is not protected by an adequate equity
16 cushion. Pursuant to *11 U.S.C. § 362(d)(2)(A)*, the Debtors have minimal to no equity in the
17 Property; and, pursuant to *§362(d)(2)(B)*, the Property is not necessary to an effective
18 reorganization.

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20 WHEREFORE, Movant prays for an Order as follows:

21 1. Order Terminating Automatic Stay to allow Movant to enforce its state law
22 foreclosure remedies against the real property described above and to allow the successful bidder
23 to recover possession of said real property in accordance with applicable state laws.
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1 2. That the Order Terminating Automatic Stay is binding and effective
2 notwithstanding any conversion of this case to a case under any Chapter of Title 11 of the United
3 States Code without further notice, hearing or court order.

4 3. That the Order Terminating Automatic Stay be deemed effective and enforceable
5 immediately upon its entry with no stay on its enforcement as prescribed by *Rule 4001(a)(3)* of
6 the *Federal Rules of Bankruptcy Procedure*.

7 4. For such other relief as the Court deems proper.
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Shapiro, Van Ess, Sherman & Marth, LLP

11 **DATED:** February 11, 2019

12 /s/ Angie M. Marth
13 **Shapiro, Van Ess, Sherman & Marth, LLP**
14 Attorneys for Movant
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